WILLS—BEQUESTS FOR MASSES—VALIDITY.—The following bequest: "I desire my executor to expend the sum of one thousand dollars for masses for the repose of my soul and those of my mother and aunt to be said at the cathedral, Louisville," *Held*, valid as a public charitable trust; other bequests in the same will to priests and bishops for the saying of masses, *Held*, valid for the same reason. *Coleman* v. *OLeary's Executors* (1902), — Ky. —, 70 S. W. Rep. 1068.

Whether bequests for masses will be held valid or void seems to depend entirely upon the view the court takes of the purpose for which money is left for the saying of masses. In *Harrison* v. *Brophy*, 59 Kans. 1, 51 Pac. 883, it was held to be a direct gift to the priest and therefore valid; and so in *Sherman* v. *Baker*, 20 R. I. 446, 40 Atl. 11. It would seem, however, that the terms of the will would preclude the idea of a gift to the priest and that it is a trust either public or private as this is the language usually used for the creation of a trust. The view that it is a public trust, as taken by the principal case, because the saying of masses is a religious service in which the general public may participate, was taken also in the case of *Hoeffer* v. *Clogan*, 171 Ill. 462. The intention of the testator as expressed would lead us to infer that it was more in the nature of a private trust since it is for the repose of his soul. When this view is taken the bequest is generally held void, either because of statutes abolishing trusts, *In re Shanahan Estate*, — Minn. —, 92 N. W. 948, or because there is no beneficiary to enforce the trust. *McHugh* v. *McCole*, 97 Wis. 166, 65 Am. St. Rep. 106; *Festorazzi* v. *Catholic Church*, 104 Ala. 327. In *Moran* v. *Moran*, 104 Iowa 216, 73 N. W. 617, 39 L. R. A. 204, it was held valid as a private trust though there was no beneficiary to enforce it. In England these bequests are classed as superstitious uses and for this reason, together with oblations in any other religion, are held void. *Re Blundell's Trusts*, 31 L. J. Ch. 52, 30 Beav. 360; *Yeap Chean Neo* v. *Ong Cheng Neo*, L. R. 6 P. C. 396. In America as the law does not concern itself with religious beliefs, bequests for masses, with the few exceptions above, are generally held valid.

WILLS—CONVEYANCE TO TAKE EFFECT AFTER DEATH—Grantor made an assignment of a deed with this limitation: "Provided this assignment shall not be of any effect until after my death." *Held*, that this proviso gave a testamentary character to the assignment and it was in fact a will and void for lack of formalities required for a will. *Coulter* v. *Shelmadine* (1902), — Pa. —, 53 Atl. Rep. 638.

The supreme court does not deliver an opinion in the case but quotes from the opinion of the lower court in affirming its decision. The conclusion that that this assignment is in the nature of a will rather than a deed is based on the definitions of a will as given by Blackstone and Kent and the court says that they appear to describe the above instrument so accurately as to leave no question as to its being testamentary in character. This seems to be a logical conclusion but is denied in the case of *Swails* v. *Bushart*, 39 Tenn. 562, where the court says that the definition of a will does not exclude the conclusion that a deed may be the same in effect in that particular. The principal case does not follow the present tendency of the courts in these and similar cases to give effect to the instrument if it is doubtful whether it is a will or a deed. The supreme court of Georgia in an exceptionally large number of cases have been called upon to construe instruments of this nature and they say that they will declare it a deed if it is necessary to do so in order to sustain the instrument. In the earlier cases in that state the court held such instruments to be testamentary in character but as stated in *Wynn* v. *Wynn*, 122 Ga. 214, 37 S. E. 378, the above doctrine since it was laid